

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PATRICK RYAN O'LEARY,

Defendant.

CR 19-33-M-DLC

ORDER

United States Magistrate Judge Kathleen L. DeSoto entered Findings and Recommendation in this matter on September 26, 2019. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge DeSoto recommended this Court accept Patrick Ryan O’Leary’s guilty plea after O’Leary appeared before her pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to one count of possession with intent to

distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1) and possession of a firearm in furtherance of a drug trafficking offense in violation of 18 U.S.C. § 924(c)(1)(A) as set forth Count II and IV of the Indictment. Defendant further agrees to the forfeiture allegation in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Counts I and III of the Indictment.

I find no clear error in Judge DeSoto's Findings and Recommendation (Doc. 45), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Patrick Ryan O'Leary's motion to change plea (Doc. 28) is GRANTED and Patrick Ryan O'Leary is adjudged guilty as charged in Counts II and IV of the Indictment.

DATED this 11th day of October, 2019.



Dana L. Christensen, Chief District Judge
United States District Court